

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KEVIN CRICHLOW,

Plaintiff,

ORDER OF SERVICE

-against-

12-cv-7774 (NSR) (AEK)

DR. ELLEN YOUSSEF; WARDEN ADA PEREZ;
IGRC EARL HUGHES; DR. STOLFL, D.D.S;
DORIS BARCZAK,

Defendants.

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THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.

By order dated February 8, 2013, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis*. ECF No. 5. On January 11, 2022, the Court granted Plaintiff permission to file a Second Amended Complaint. Plaintiff filed his Second Amended Complaint on May 19, 2022; the amended pleading added four new defendants. ECF No. 202. The Court issued an order on July 1, 2022 to enable Plaintiff to effect service on two of those four newly-named defendants—Ada Perez and Earl Hughes. ECF No. 204.

Since that date, the Court has conducted multiple status conferences and received information from counsel of record from the New York State Attorney General's Office regarding the two other newly-named defendants, Dr. Stolfl, D.D.S. and Doris Barczak. The most recent such conference took place on September 2, 2022. Now, to allow Plaintiff to effect service on newly-named Defendant Dr. Stolfl, D.D.S. through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for this defendant. The service address for this defendant is as follows:

Dr. Stolfl, D.D.S.
Green Haven Correctional Facility
594 NY-216
Stormville, New York 12582

The Clerk of Court is further instructed to issue a summons with respect to Defendant Stolfl and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon this defendant. As discussed during the September 2, 2022 conference, **Plaintiff also must mail a copy of the summons and the Second Amended Complaint to the New York State Department of Corrections and Community Supervision** at the following address:

New York State Department of Corrections and Community Supervision
The Harriman State Campus, Building 2
1220 Washington Avenue
Albany, New York 12226

Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons and complaint be served within 90 days of the date the complaint is filed, the Court hereby extends the time to serve Defendant Stolfl until 90 days from the date of this Order, *i.e.*, until December 5, 2022. If the Second Amended Complaint is not served on Defendant Stolfl within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding *in forma pauperis*] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

In addition, at the September 2, 2022 conference, Plaintiff requested an extension of time to complete service on Defendants Perez, Hughes, and Doris Barczak, because there is no

indication on the docket that the Marshals Service has completed service on Defendants Perez and Hughes, and because no potential service address has been identified yet for Defendant Barczak. The Court granted that application during the conference, and memorializes that approval here. Accordingly, the deadline to complete service on all newly-named defendants—*i.e.*, Dr. Stolfl, Doris Barczak, Ada Perez, and Earl Hughes—is now December 5, 2022. Service cannot be effectuated on Defendant Barczak through the U.S. Marshals Service until such time as Plaintiff provides the Court with this defendant's address. In order for Defendant Barczak to be served by December 5, 2022, Plaintiff will have to provide her address to the Court well in advance of the deadline. The failure to effect proper service on a defendant by the December 5, 2022 deadline may result in the dismissal of Plaintiff's claims against that defendant.

The Clerk of the Court is respectfully directed to mail a copy of this Order to the *pro se* Plaintiff.

Dated: September 6, 2022
White Plains, New York

SO ORDERED.



ANDREW E. KRAUSE
United States Magistrate Judge